

# Lease Contracts for Real Property: The Life Cycle of a Lease

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NYS COMPTROLLER

**THOMAS P. DiNAPOLI**

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# Harvesting Knowledge

2016 Fall Conference | October 25 - 26

## Office of Operations

John Traylor, Executive Deputy Comptroller

## Division of Contracts & Expenditures

Margaret N. Becker, Deputy Comptroller  
Charlotte Davis, Director, Bureau of Contracts



NYS COMPTROLLER  
**THOMAS P. DiNAPOLI**

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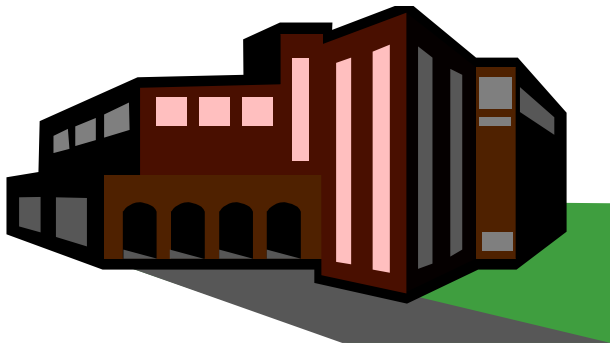
# Background Information

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# Agencies that May Enter into Lease Contracts

- Office of General Services
- New York State Police
- State University of New York
- City University of New York
- Dormitory Authority of the State of New York



# Leases Requiring OSC Approval

- Contract value of \$50,000 or more
- Intrinsic value of \$25,000 or more



# Common Lease Terminology

- Usable Space
- Rentable Space
- Tenant Work Letter
- Turn Key Lease
- Lease Allowance
- Triple Net
- Holdover
- OP Contract



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# Before a Lease is Executed

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# Need Justification

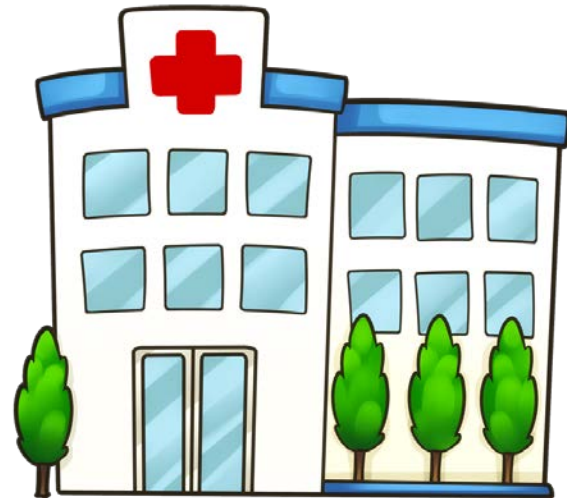
- New program
- Program expansion
- New technology
- Legislative mandate





# Site Justification

- Cost
- Vicinity
- Program needs



# Cost Justification

## Best Site at the Best Price

- Market Analysis
- Comparable Property Analysis of Specific Properties

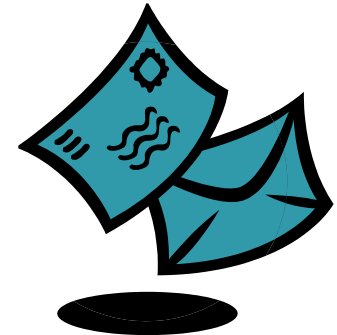


# Advertising Requirements

- Contract Reporter



- Local Papers



- Mailings to Interested Parties



# The NYS Contract Reporter Website

New York State  State Agencies Search all of NY.gov

Opportunities posted today **44**

Opportunities posted in the last 7 days **189**

Total available opportunities **742**



**The New York State Contract Reporter**

*NYS' official source of contracting opportunities  
Bringing business and government together*

Log In

Sign up and register for your free account!

Click here to get started

I want to find contracts to bid on

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Learn about the New York State Business Registry

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➤



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# Drafting a Lease

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# Be Sure to Address

- Start Date and End Date
- Utilities
- Not-to-Exceed Amount for Tenant Work
- Holdover, Termination & Escalation Provisions



# Possession Clause

Lease Term Begin Date & Obligation to Pay Rent commence on:

- Approved lease delivered to landlord, or
- Substantial completion, or
- Ready for occupancy



# Insurance Requirements





# Insurance Resources

- The [Council of Contracting Agencies Procedure Manual For Insurance Requirements](#)
- Your Agency's Legal Office
- [A.M. Best Insurance Report](#)



# Required Insurance Coverage

- Commercial General Liability
  - \$2 to \$5 million *per occurrence*
- Commercial Property
  - Not less than full insurable value
- Waiver of Subrogation
- Workers Compensation & Disability



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# Prior to Submitting a Lease to OSC

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# Lease Costs

- Initial term rent
- Tax escalations
- Operating escalations
- Utilities
- Janitorial services
- Parking
- Security services
- Other

**Intrinsic Value** Total of all associated costs including items not paid directly to the Landlord

**STS/AC340s Value** Total to be paid directly to the Landlord



# Sample Lease Calculation

	Proposed	10 Year Cost
<b>Location</b>	1 John Doe Street	
<b>Rentable Sq. Footage</b>	12,500	
<b>Rate per Square Foot</b>	\$16.38	
<b>Annual Rent*</b>	\$204,750.00	\$2,307,292.00
<b>Other Cost:</b>		
<i>Electric</i>	<i>\$18,750.00</i>	<i>\$205,649.00</i>
Escalations -Operating-		\$41,550.00
Escalations - Tax -		\$24,199.00
<b>Parking</b>	\$22,500.00	\$225,000.00
<b>Total Annual Cost</b>	\$246,000.00	\$2,803,690.00

\*Reflects Rental Rate increase to \$20.00 psf in years 6-10

Note: Costs in *BOLD italics* are not part of this Agreement and should not be included in AC340.

$$\begin{array}{rcl}
 \$2,803,690.00 & - & \$205,649.00 & = & \$2,598,041.00 \\
 \text{Total Cost} & & \text{Electric} & & \text{STS Value}
 \end{array}$$



# Vendor Responsibility Documentation

- Agency Determination
- Workers' Compensation
- Disability Benefits Insurance Coverage



# Attorney General Review

- Approves as to form
- Forwards to OSC



# Lease Package Requirements

- STS/AC 340S
- Cover letter
- Agency contact information
- Complete lease agreement
  - Original signatures
  - Additional signature pages
- Advertisement
- Need, site & cost justifications
- Vendor responsibility documents





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# During the Lease Term

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# Lease Modification

## Changes during the term

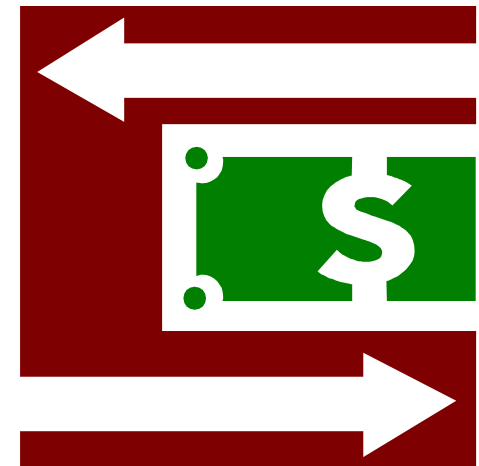
- Formal amendment
- Original signatures
- AG approval



# Lease Assignment

Two STS/AC 340S Forms:

1. Negative amount to reduce old contract
  2. Positive amount to open new contract
- Contract assignment agreement with effective date
  - Vendor responsibility documentation
  - Cover letter



# 1. Reduce Original Lease

Reduce Contract Amount to Equal Life To Date expenditures

Contract Value      \$100,000

LTD                      - \$40,000

Remainder            \$60,000

Closeout STS        - \$60,000



## 2. Establish New Lease

- STS/AC340S equal to amount taken off the old lease
- Begin Date equal to effective date of assignment
- Funds reservation through current fiscal year



# OP Prefix Transaction

## Purchase Order Subject to OSC Review

- One time costs considered in the lease but not part of the contract amount
  - Tenant build-out costs
- Costs not considered in original lease
  - New carpet
  - Reconfiguration



# OP Submission Requirements

- Need justification
- Cost justification
- Vendor responsibility documentation if vendor other than landlord
- NYS Description field = lease contract number (e.g., L001234)



# Reallocation of Space

OGS Reallocation Letter provides:

- Effective date
- Square footage
- Rental rate
- Agency share





# Reallocation Chart

Agency	Rentable SF	Rate per SF	Monthly Rent	Annual Rent	Pro-rata Share of Building	Pro-rata Share of Parking	Additional Rent
A	5,664	\$16	\$7,552	\$90,624	8.85%	27	\$928.37
B	58,336	\$16	\$77,781.34	\$933,376	91.15%	273	\$9,561.64
Totals	64,000	\$16	\$85,333.34	\$1,024,000	100%	300	\$10,490.01

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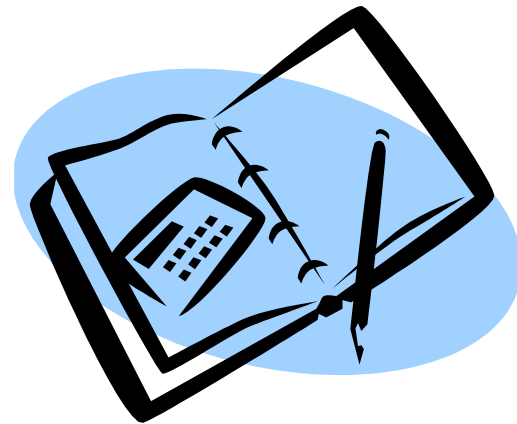
# End of the Lease Term

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# Lease Renewal

- Fixed-Rate Renewal Option
- To-Be-Negotiated Rate Renewal Option



# Lease Holdover

As specified in the lease

- Current rate
- Higher rate



# Holdover Requirements

- Holdover letter to landlord
- Cover letter
- STS/AC 340S
- Cost calculation
- Funds reservation



# Holdover - Example 1

## STS/AC 340S Amount

\$50,000	Needed for one year
\$22,500	Remaining on contract
<u>- \$7,500</u>	Outstanding voucher
<b>\$15,000</b>	<b>Available</b>
\$50,000	Needed for holdover
<u>-\$15,000</u>	Balance available
<b>\$35,000</b>	<b>STS amount</b>



# Holdover - Example #2

Six month holdover is required:


\$100,000	Needed for six months
\$20,000	Remaining on contract
- <u>\$15,000</u>	Outstanding voucher
<b>\$5,000</b>	<b>Available</b>

\$100,000	Needed for six months
- <u>\$5,000</u>	Available
<b>\$95,000</b>	<b>STS amount</b>



# Find Available Amount in SFS

## Step 1: Procurement Contracts



The screenshot displays the SFS interface with two main panels: 'Menu' and 'My Reports'.

**Menu Panel:** Contains a search bar and a list of navigation options. A red arrow points to 'Procurement Contracts'.

- My Favorites
- Contract Audit
- Misc. Audit Transactions
- Employee Self-Service
- Manager Self-Service
- Supplier Contracts
- Customer Contracts
- Suppliers
- Procurement Contracts
- Purchasing
- eProcurement
- Services Procurement

**My Reports Panel:** Displays a table of reports and folders.

Report	Folder
NY_INTRA_JRN	General
	2015-10-26-10.49.4
NY_INTRA_JRN	General
	2015-10-26-08.41.1
NYKK3833	General
	2015-10-24-03.17.5
NYAP0548	General
	2015-10-24-03.11.4
NYAP0215	General
	2015-10-24-03.05.5

Report Manager





# Step 2: Add/Update Contracts

 <b>Procurement Contracts</b> Define, maintain, release, review and report on supplier contracts.		
 <b>Add/Update Contracts</b> Add or modify contract header, line, and release information.	 <b>NYS Master Contract</b> NYS Master Contract	 <b>Amendments</b> Maintain procurement contract amendments
 <b>Review Contract Information</b> Run inquiries on contract details and activities. <ul style="list-style-type: none"><li> Review Contracts by PO</li><li> Events</li><li> Document Status</li></ul>		




# Step 3: Enter Business Unit & NYS Contract Number

Find an Existing Value | Add a New Value

▼ Search Criteria

SetID	=	▼	SHARE	🔍
Contract ID	begins with	▼		
Contract Version	=	▼		
Version Status	=	▼		▼
Contract Process Option	=	▼		▼
Short Supplier Name	begins with	▼		🔍
Supplier Name	begins with	▼		🔍
Master Contract ID	begins with	▼		🔍
Business Unit	begins with	▼	OAS01	✕ 🔍
NYS Contract #	begins with	▼	L001256	
Department	begins with	▼		🔍
Contract Profile	begins with	▼		🔍

Correct History    Case Sensitive



# Step 4: Search

**Search Criteria**

SetID =

Contract ID begins with

Contract Version =

Version Status =

Contract Process Option =

Short Supplier Name begins with

Supplier Name begins with

Master Contract ID begins with

Business Unit begins with

NYS Contract # begins with

Department begins with

Contract Profile begins with

Correct History    Case Sensitive

     Basic Search   [Save Search Criteria](#)



# Step 5: Select Appropriate Version

Find an Existing Value | Add a New Value

▼ Search Criteria

SetID = ▾ SHARE x 🔍

Contract ID begins with ▾

Contract Version = ▾

Version Status = ▾

Contract Process Option = ▾

Short Supplier Name begins with ▾ 🔍

Supplier Name begins with ▾ 🔍

Master Contract ID begins with ▾ 🔍

Business Unit begins with ▾ OAS01 🔍

NYS Contract # begins with ▾ L001256

Department begins with ▾ 🔍

Contract Profile begins with ▾ 🔍

Correct History  Case Sensitive

Search Clear Basic Search 🔍 Save Search Criteria

Search Results

View All

SetID	Contract ID	Contract Version	Version Status	Contract Process Option	Supplier ID	Short Supplier Name	Supplier Name	Expire Date	Contract Status	Master C
SHARE	OAS01-L001256-3670000 8		Current	Order	1000006814	DELTA PROP-001	DELTA PROPERTIES LLC	03/31/2016	Approved	(blank)
SHARE	OAS01-L001256-3670000 7		History	Order	1000006814	DELTA PROP-001	DELTA PROPERTIES LLC	03/31/2016	Approved	(blank)
SHARE	OAS01-L001256-3670000 6		History	Order	1000006814	DELTA PROP-001	DELTA PROPERTIES LLC	03/31/2016	Approved	(blank)
SHARE	OAS01-L001256-3670000 5		History	Order	1000006814	DELTA PROP-001	DELTA PROPERTIES LLC	03/31/2016	Approved	(blank)
SHARE	OAS01-L001256-3670000 4		History	Order	1000006814	DELTA PROP-001	DELTA PROPERTIES LLC	03/31/2016	Approved	(blank)
SHARE	OAS01-L001256-3670000 3		History	Order	1000006814	DELTA PROP-001	DELTA PROPERTIES LLC	03/31/2016	Approved	(blank)



# Step 6: Amount Summary Displays

L001256  
3670000  
ECC  
LFR00006

Requisition Exists

Tax Exempt

Amount Summary ?			
Maximum Amount	15,113,142.79	USD	
Line Item Released Amount	269,591.54		Non-PO Exp 14560186.870
Category Released Amount	0.00		Non-PO Adj -33,187.480 Am
Open Item Released Amount	0.00		Vchr Exp
Total Released Amount	269,591.54		In Prcs Hdr 0.000
<hr/>			
Remaining Amount	316,551.86		Amendment 0.000
Remaining Percent	2.09		Rqst Amt

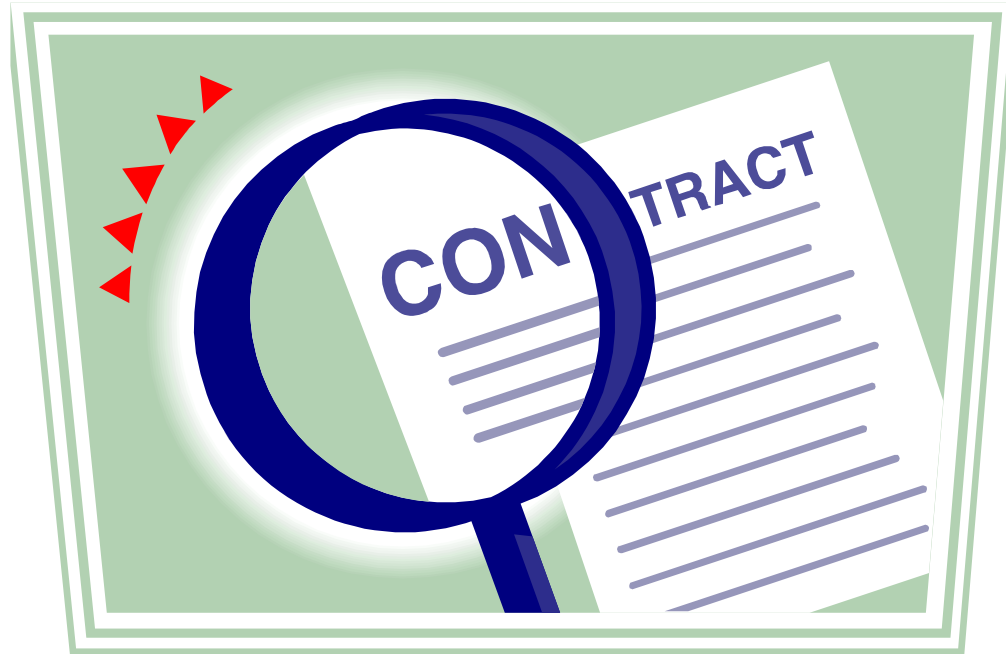


# Contract Closeout

- After all outstanding payments are made
- Reduce to zero
  - Negative STS/AC 340S equal to remaining amount



# Real Property & Negotiated (RPN) Contracts Team





**Office of  
General Services**

# **The Business Services Center's Partnership with Real Estate Planning & Development**

**October 2016**



# OGS Real Estate Planning & Development (REPD)

Real Estate Planning & Development (REPD) is a department within OGS, outside the BSC, that has become New York's central office for real estate operations.

# OGS Real Estate Planning & Development (REPD)

REPD will:

1. Develop a centralized, statewide database of all NYS real estate, both owned and leased
2. Manage and process all real estate transactions
3. Manage and administer all OGS controlled space and property
4. Support operations and customer service and establish performance metrics for lease processing including site identification, lease processing and administration
5. Pilot the SFS Real Estate Module

Note: Leases not managed by the OGS Real Estate Planning & Development will continue to be managed by agencies.

## **The BSC Role in Processing Real Estate Transactions**

In support of OGS REPD, the BSC is serving as the central office for processing and monitoring all OGS managed real estate transactions in SFS on behalf of our customer agencies.

Centralizing lease payment processing results in timely payments to landlords and lower interest payments for customer agencies.

## New Leases

REPD will initiate a project to secure a leased location on behalf of the agency once the programmatic requirement is established. Working collaboratively with the agency, REPD will oversee full execution of a lease document.

- Agency will fill out Lease Purchase Request Form and submit to the BSC
- Based on this information received from OGS/REPD and the Agency, the BSC will enter the contract requisition into SFS and electronically route it to the agency for review and approval
- The Agency will approve contract requisition in SFS

## New Leases (cont.)

- Upon Agency approval, the BSC will generate a Single Transaction Summary (STS) and provide to Agency for submission, with contract documents to AG and OSC for contract approval
- Upon AG & OSC approval, BSC will create a contract release to generate a purchase order
- Once BSC receives a commencement letter from OGS/RE, BSC will link the purchase order to the lease in the real estate module to facilitate automated lease payments

# Contract Administration

BSC will support all lease contract administration functions in SFS including:

- Monitoring contract balances
- Monitoring PO balances
- Coordinating and processing purchase order change notices
- Holdovers
- Amendments
- Assignments
- Reallocations

## Lease Related One-Time Purchases Requiring OSC Approval

Lease Related One-Time Purchases are generally for one-time purchases that do not require a formal contract document other than the standard purchase order.

- Any purchase that is lease related, but not covered by the scope of the lease and is payable to the landlord, requires OSC approval, regardless of cost. If the purchase is related to Capital Construction, REPD approval is required regardless of cost
- Upon agency request, BSC will enter the contract requisition in SFS and submit to the agency for review and approval

## Lease Related One Time Purchases Requiring OSC Approval

- Once agency approves the contract requisition in SFS, BSC will generate STS and submit to OSC for contract approval
- Upon OSC approval, BSC will create a contract release to generate a purchase order. Purchase Orders will include associated lease project ID



# Types of Lease Transactions and Payment Processing Methods

	RECURRING	NON-RECURRING	Payment Method
FIXED	Base rent, parking, janitorial, storage*	N/A	Automated Voucher
VARIABLE	Real estate taxes, operating expenses, escalations, electric**	OPL – One Time Purchase – Lease***	Traditional Voucher Process

\*services included within the scope of the lease where dollar amounts are defined (fixed)

\*\*services included within the scope of the lease where dollar amounts are not defined (variable)

\*\*\*goods or services not within the scope of the lease however pertain to a leased facility (variable)

# Payment Processing

Using the new automated payment functionality in SFS, the BSC facilitates the scheduling and management of automated payments for recurring lease transactions.

- Automated payments occur on the 1st of the month
- Landlords should be strongly encouraged to automate the payment process using Automated Clearing House (ACH)

The BSC will continue to manually process invoices for non-recurring and variable payments including obtaining agency approval to pay and ensuring funds are encumbered for payment.

## Contact Information

### **Business Services Center**

Phone (518) 457-4272

BSC Lease Purchase Order/Change Notices:

[Contractpos@ogs.ny.gov](mailto:Contractpos@ogs.ny.gov)

BSC Lease Accounts Payable Unit:

[BSCAPleases@ogs.ny.gov](mailto:BSCAPleases@ogs.ny.gov)

### **Real Estate Planning & Development**

Phone (518) 474-4944